

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Enoch Sowah	Team: Squad #1	CCRB Case #: 202006330	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 09/12/2020 1:59 PM, Saturday, 09/12/2020 5:00 PM	Location of Incident: At Clinton and Delancey Streets; and Inside of 19 Pitt Street (007 Precinct stationhouse)	Precinct: 07	18 Mo. SOL 3/12/2022	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 09/17/2020 1:35 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 09/17/2020 1:35 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Stephen Patti	10817	957939	007 PCT
2. POM Philip Schaefer	20616	964282	007 PCT
3. POM Zachary Palladino	10746	964694	007 PCT
4. POM Jose Beltran	11878	965662	007 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Asmir Dragovic	03271	956612	I.A.B.
2. POM Sam Zitomer	06520	964853	007 PCT
3. POM Manuel Reyes	30929	939749	007 PCT
4. POM Alex Zhu	10261	968901	007 PCT
5. SGT Vincent Lee	04331	921067	007 PCT
6. POM Shane Phillips	18260	968709	007 PCT
7. SGT Edward Caceres	03178	941482	007 PCT
8. POM Jack Deng	08379	952666	007 PCT
9. POM Sean Robinson	04836	961183	007 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Stephen Patti	Abuse: At Clinton and Delancey Streets in Manhattan, Police Officer Stephen Patti stopped § 87(2)(b)	
B.POM Philip Schaefer	Abuse: At Clinton and Delancey Streets in Manhattan, Police Officer Philip Schaefer stopped § 87(2)(b)	
C.POM Stephen Patti	Force: At the 7th Precinct stationhouse, Police Officer Stephen Patti used physical force against § 87(2)(b)	
D.POM Zachary Palladino	Force: At the 7th Precinct stationhouse, Police Officer Zachary Palladino used physical force against § 87(2)(b)	
E.POM Jose Beltran	Force: At the 7th Precinct stationhouse, Police Officer Jose Beltran used physical force against § 87(2)(b)	

### Case Summary

On September 17, 2020, § 87(2)(b) called the CCRB and filed this complaint on behalf of himself.

On September 12, 2020, at approximately 1:53 p.m., Police Officers Stephen Patti and Philip Schaefer of the 7<sup>th</sup> Precinct stopped § 87(2)(b) in the vicinity of Clinton and Delancey Streets in Manhattan (**Allegations A and B: Abuse of Authority**, § 87(2)(g)). At the 7<sup>th</sup> Precinct stationhouse, PO Patti, and Police Officers Zackary Palladino, and Jose Beltran, used force against § 87(2)(b) (**Allegations C through E: Force**, § 87(2)(g)). § 87(2)(b) was arrested as a result of this incident, and charged with robbery, impersonating a police officer, and petit larceny (**Board Review 01 – Board Review 02**).

Nine police body worn cameras (BWC) and three stationhouse footages were received for this case (**Board Review 03 – Board Review 13**).

### Findings and Recommendations

**Allegation (A) Abuse of Authority: At Clinton and Delancey Streets in Manhattan, Police Officer Stephen Patti stopped § 87(2)(b).**

**Allegation (B) Abuse of Authority: At Clinton and Delancey Streets in Manhattan, Police Officer Philip Schaefer stopped § 87(2)(b).**

The following facts are not disputed. On September 12, 2020, at approximately 1:53 p.m., § 87(2)(b) was walking in the vicinity of Delancey and Clinton Streets in Manhattan, when PO Patti and PO Schaefer approached § 87(2)(b). § 87(2)(b) said he had an active warrant, and arrested him. § 87(2)(b) (Board Review 14), who was dressed in a white G-Star T-shirt, navy blue pants, and a navy blue shirt, said he did not see nor interact with the officers at any point prior to their approach. He said the officers approached him immediately after he crossed the street at the intersection of Clinton and Delancey Streets, and accused him of “jaywalking.” § 87(2)(b) acknowledged that he did not cross the street at a crosswalk, and might have been “jaywalking,” but said there was no oncoming vehicle when he crossed the street. § 87(2)(b) provided his identification to one of the officers, he did not recall who, after which the two officers informed § 87(2)(b) that he had an active warrant, and was thus under arrest. PO Patti and PO Schaefer handcuffed § 87(2)(b), placed him in the backseat of their marked vehicle, and transported him to the 7<sup>th</sup> Precinct stationhouse. The officers never informed § 87(2)(b) what charges were listed on the alleged warrant. § 87(2)(b) denied having any active warrants, and said he did not commit any crime on the incident date.

PO Patti (Board Review 15) said that he and PO Schaefer were patrolling Grant and Willet Streets in Manhattan, when PO Patti observed § 87(2)(b) walking on the side of the street. § 87(2)(b) who was approximately five feet away from the officers’ vehicle, appeared to fit the exact description of an individual wanted by the NYPD’s Police Impersonation Investigations Unit (PIIU). PO Patti said that on September 11, 2020, officers from the 7<sup>th</sup> Precinct received an email from PIIU with a Wanted Poster and photograph of a black man in his late 40s, who was wanted for armed robbery and impersonating a police officer in the confines of the 7<sup>th</sup> Precinct. PO Patti did not recall what other information was provided in the email, but said the picture of the alleged perpetrator was visible, and that § 87(2)(b) facial features resembled the individual depicted in the Wanted Poster. PO Patti informed PO Schaefer of his observation, and showed the Wanted Poster, which PO Patti retrieved from his handheld device, to PO Schaefer. The two officers agreed that § 87(2)(b) was the individual depicted in the Wanted Poster. PO Patti reached out to PIIU over the radio, and confirmed that warrant for § 87(2)(b) arrest was still active. PO Patti and PO Schaefer thus decided to stop and arrest § 87(2)(b) in relation to the Wanted Poster. PO Patti did not recall if § 87(2)(b) had been “jaywalking,” but said § 87(2)(b) had been walking on the side of the street instead on the sidewalk, and that § 87(2)(b) actions were summonable. PO Patti, however, said that the sole reason the officers approached § 87(2)(b) was because a warrant and wanted poster had been issued for his arrest.

On September 10, 2020, the NYPD's Internal Affairs Bureau (IAB) issued a Wanted Poster in relation to a probable cause to arrest ICARD for § 87(2)(b) who was wanted for armed robbery and impersonating a police officer. A photograph of § 87(2)(b) face is depicted in the Wanted Poster (Board Review 16). The photograph on the Wanted Poster matches the arrest photograph of § 87(2)(b) taken as a result of this incident, particularly his distinctive left eye (Board Review 25).

Officers can stop and detain an individual if they have reasonable suspicion that the individual has committed, is committing, or is about to commit a crime, People v. DeBour, 40 N.Y.2d 210, 224 (1976) (Board Review 17).

Reasonable suspicion is defined as the quantum of knowledge to induce an ordinarily prudent and cautious person under the circumstances to believe criminal activity is at hand, and such a stop must be predicated on specific, articulable facts, and not vague or unparticularized hunches, People v. Cantor, 36 N.Y.2d 16 (1975) (Board Review 18).

§ 87(2)(b), § 87(2)(g)

**Allegation (C) Force: At the 7<sup>th</sup> Precinct stationhouse, Police Officer Stephen Patti used physical force against § 87(2)(b)**

**Allegation (D) Force: At the 7<sup>th</sup> Precinct stationhouse, Police Officer Zachary Palladino used physical force against § 87(2)(b)**

**Allegation (E) Force: At the 7<sup>th</sup> Precinct stationhouse, Police Officer Jose Beltran used physical force against § 87(2)(b)**

§ 87(2)(b) said he was lodged inside a single cell at the 7<sup>th</sup> Precinct stationhouse, and that at some point he overheard PO Patti and some other officers discussing adding additional charges to his arrest. § 87(2)(b) thus began to yell and scream inside the cell, but did not recall what he said. PO Patti, and “five” other officers, none of whom § 87(2)(b) could describe, entered § 87(2)(b) cell, grabbed and pushed § 87(2)(b) to the ground, and caused § 87(2)(b) to hit his head on the floor. The six officers then began to punch and kick § 87(2)(b) on his head, shoulders, back, and entire body. The officers then handcuffed § 87(2)(b) and left the cell. § 87(2)(b) did not know why the officers used force against him, did not know which of the officers kicked or punched him, and denied acting aggressively towards the officers at any point while in the stationhouse. He said he was subsequently removed to § 87(2)(b) Hospital, where medical staff informed § 87(2)(b) that he was brought to the hospital because he had attempted to commit suicide. § 87(2)(b) denied trying to harm himself at any point during this incident, and did not recall if he sustained any physical injuries. Attempts to have § 87(2)(b) sign medical release forms were unsuccessful.

Surveillance footage from the 7<sup>th</sup> Precinct stationhouse first floor holding cells (Board Review 12), at 00:15:13, shows PO Schaefer lodging § 87(2)(b) inside a single cell. § 87(2)(b) is wearing a navy blue shirt, navy blue pants, and brown shoes. At 00:15:20, PO Schaefer appears to leave the cell area. Between 00:15:40 and 06:28:00, § 87(2)(b) is alone in the cell, during which he occasionally sleeps on a wooden bench in the cell, paces back and forth, and appears to speak to himself. At 06:28:15, § 87(2)(b) paces back and forth inside the cell, and appears to be yelling and gesturing to himself. At 06:29:50, § 87(2)(b) removes his shirt, and ties what appears to be one of the sleeves around one of the metal bars of the cell gate. § 87(2)(b) then wraps the untied portion of the shirt around his neck. He then begins to pull his body towards

the floor, while holding onto the shirt around his neck. At 06:30:12, § 87(2)(b) appears to pull his body further towards the floor. At 06:30:52, PO Patti approaches and opens the cell gate. § 87(2)(b) is still holding onto the shirt wrapped around his neck, and is pulling himself towards the floor. At 06:30:54, PO Patti uses what appears to be a pair of scissors to cut the part of § 87(2)(b) shirt tied around the metal bar of the cell. § 87(2)(b) falls to the floor after PO Patti cuts through his shirt, and is lying flat on his stomach by the cell gate. At 6:31:00, PO Patti slides § 87(2)(b) into the cell. § 87(2)(b) continues to lie on his stomach, and appears to have his hands underneath his chest. At 06:31:08, PO Zachary Palladino enters § 87(2)(b) cell. PO Patti and PO Palladino appear to attempt to grab § 87(2)(b) arms, but § 87(2)(b) appears to move his body from side to side. At 06:31:15, PO Jose Beltran also enters the cells, and attempts to assist PO Palladino and PO Patti obtain § 87(2)(b) arms. At 06:31:17, § 87(2)(b) appears to be slightly turned on his side, and PO Patti and PO Beltran appear to be holding § 87(2)(b) right arm. PO Palladino appears to have his hands around § 87(2)(b) waist. At 06:31:19, PO Patti and PO Beltran pull § 87(2)(b) right arm, while PO Palladino pushes § 87(2)(b) on his back. § 87(2)(b) appears to move his body and pull away. At 06:31:21, the three officers turn § 87(2)(b) on his stomach. PO Patti and Beltran grab and hold § 87(2)(b) right hand, which is behind his back. At 06:31:23, PO Palladino grabs and brings § 87(2)(b) left hand, which is underneath § 87(2)(b) chest, to his back. At 06:31:24, PO Beltran and PO Palladino hold § 87(2)(b) right and left hand, respectively, and PO Patti handcuffs him. At 06:31:33, PO Patti and PO Palladino pick § 87(2)(b) up from the floor, and sit him on wooden bench in the cell. At 06:31:38, PO Patti places leg shackles on § 87(2)(b). At 06:32:25, the officers exit and leave § 87(2)(b) alone in the cell. At 06:51:30, two FDNY Emergency Medical Technicians (EMT) enter the cell area, speak with § 87(2)(b). At 06:58:20, the EMTs appear to leave the cell area. § 87(2)(b) however, remains in the cell. At 07:38:36, an unidentified officer escorts § 87(2)(b) out of the cell. § 87(2)(b) does not return to the cell. The video ends at 10:00:02.

PO Patti's testimony was consistent with the stationhouse footage. He said he was at the front desk processing § 87(2)(b) arrest, when he observed § 87(2)(b) through the stationhouse cameras trying to hang himself with his shirt. PO Patti quickly rushed to the cell, cut § 87(2)(b) shirt from the metal bar to relieve the pressure off § 87(2)(b) neck. PO Patti together with PO Palladino and PO Beltran then tried to place § 87(2)(b) in handcuffs to ensure that § 87(2)(b) did not attempt to further harm himself, and also to remove § 87(2)(b) to the hospital for a medical evaluation, but § 87(2)(b) struggled with the officers, and refused to give them his arms. The officers thus grabbed § 87(2)(b) arms away from his chest, held him on the floor, and placed him in handcuffs and leg shackles. PO Patti said the officers did not use any other form of force against § 87(2)(b) and that at no point did any of the officers punch or kick § 87(2)(b). PO Patti said § 87(2)(b) sustained redness and minor bruising around his neck as a result of wrapping his shirt around his neck, and did not sustain any other injuries. § 87(2)(b) was removed to the hospital for the redness around his neck, and for a medical evaluation for attempting to hang himself.

The Medical Treatment of Prisoner Report (MTPR) and the Threat Resistance and Injury (TRI) report were consistent with PO Patti's testimony and the surveillance footage (Board Review 19 – Board Review 20).

NYPD Patrol Guide Procedure 221-01, permits officers to use force when it is reasonable to ensure their safety or that of a third person, to gain compliance and prevent escape from custody (Board Review 21).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

### Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- PO Patti has been a member of service for six years and has been a subject in eight CCRB complaints, and 18 allegations, one of which was substantiated:
  - Case #202003817 involved a substantiated obstructed shield number allegation. The Board recommended Command Discipline. The NYPD is yet to impose discipline.
  - § 87(2)(g) [REDACTED]  
[REDACTED]
- PO Schaefer has been a member of service for four years, and this is the first CCRB complaint to which he has been a subject.
- PO Palladino has been a member of service for three years, and has been a subject in three CCRB complaints, and six allegations. One of the complaints was closed as complainant uncooperative, whereas the remaining two are pending investigation. § 87(2)(g) [REDACTED]  
[REDACTED]
- PO Beltran has been a member of service for four years, and this is the first CCRB complaint to which he has been a subject.

### Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of July 21, 2021, the New York City Office of the Comptroller had no record of a Notice of Claim being filed in regards this to complaint (Board Review 23).

- § 87(2)(b) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Squad: \_\_\_\_1\_\_\_\_

Investigator:	<u>Enoch Sowah</u>	<u>Inv. Sowah</u>	<u>07/21/2021</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Mgr. Joy Almeyda</u>	<u></u>	<u>7.21.21</u>
	Signature	Print Title & Name	Date

Reviewer:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Title & Name

\_\_\_\_\_  
Date